

Fauquier County Riparian Easement Program Solutions Team

Declaration of Cooperation

An Initiative Facilitated by Virginia Solutions

Preface:

Virginia's Secretary of Natural Resources, W. Tayloe Murphy Jr., appointed Harry Atherton, Vice Chairman of the Fauquier County Board of Supervisors as the convener for the Fauquier County Riparian Easement Solutions (FREPS) Team. These meetings were made possible through funding secured by the Institute of Environmental Negotiation of The University of Virginia by means of a grant from the Laura J. Musser Foundation through the Virginia Solutions Program. Piedmont Dispute Resolution Center, a partner in the Virginia Solutions Program, provided facilitation services to support the FREPS Team work. The FREPS Team convened August 22, 2005 to collaborate on the development of a riparian buffer easement program for Fauquier County to preserve, protect and improve the quality of Fauquier County's headwaters for its future water supply, and to offer value and transferability to the county's downstream neighbors. The development of a Riparian Buffer Easement Program is part of the county's overall Water Resource Management Plan.

Runoff to Fauquier County's streams and rivers flows into the Rappahannock, Occoquan, and Potomac Rivers, and eventually into the Chesapeake Bay. The riparian easement program is seen as one method of reducing the amount of pollutants that impact local waterways and downstream neighbors. Varying levels of contaminants in all Fauquier County rivers and streams require timely and effective remedial action. Voluntary, incentive based, and government initiatives, such as nutrient trading of point source to non point source credits, were proposed as mechanisms for improving the water quality of the county's impaired streams.

This Declaration of Cooperation stands both as a record of the work that the FREPS Team has accomplished, and as a commitment of the members to continue to support the work of developing the Fauquier County Riparian Easement Program. This Declaration of Cooperation will continue to enrich in detail throughout the program development process.

Project Description:

Defining a necessarily complex program for riparian easements will be a large task with attention needed to a considerable amount of details. The FREPS Team has identified many items that will need to be defined, or worked through on the path to a completed program plan.

The following outline of issues covers the items that the FREPS Team identified at the August 22, 2005 meeting.

Program Structure

WHO

1. Who will administer the program or program elements?
 - a) How will selection of eligible land be made?
 - b) Who will hold the easements?
 - c) What group will create and maintain documents and records?
 - d) Who will manage funds and make payments?
 - e) Who will manage follow-up funds for maintenance?
 - f) Who will manage follow-up funds for enforcement?
2. What are the specific roles of all involved agencies? (Refer to Final Declaration Statements)
3. Are there others (perhaps experts in the above identified areas) who should be included or involved?

WHAT

4. The three pronged program
 - a) What is nutrient trading?
 - b) Nutrient Trading is the transfer of nutrient reduction credits, specifically those for nitrogen and phosphorus, between buyers (entities that purchase nutrient reduction credits) and sellers (entities that offer nutrient credits for sale).
 - c) What are the nutrient trading issues:
 - a. Who owns credits?
 - b. Who markets credits?
 - c. Who gets income from credit sales?
 - d. How does TMDL fit in?
5. Other program elements beyond nutrient trading.
6. Development land application process.
7. Voluntary participation

HOW

8. How will the funding be structured?
 - a) Foundation?
 - b) Other?
9. Where are sources of funding?
 - a) Department of Forestry
 - b) Others?
10. What funding is needed?

- a) Funding for development.
 - (1) Sources
 - (2) Management
 - b) Funding for implementation.
 - (1) Sources
 - (2) Management
 - c) Funding for maintenance.
 - (1) Sources
 - (2) Management
 - d) Funding for enforcement.
 - (1) Sources
 - (2) Management
11. What are the legal issues?
- a) Who will handle enforcement / abuse issues?
 - b) Who will represent property owners?
 - c) Who will represent easement holders?
 - d) Will there be a need for legislative change to accommodate voluntary easement program?
12. How will we define a riparian buffer?
- a) How will the buffers be measured? (distance/size)
 - (1) Edge of water
 - (2) Middle of water
 - (3) Edge of wetland
 - (4) Edge of flood plain
 - b) What are the allowed usages for buffer easement areas?
 - (1) Public access
 - (2) Recreation
 - c) What are the prohibited usages for buffer easement areas?
 - (1) Animal Grazing
 - (2) Crop land
 - d) What vegetation will support the buffers?
 - (1) Permitted
 - (2) Required
 - (3) Natural Regrowth vs. Engineered Plans
13. How will we define a riparian buffer easement?
- a) Value of easement
 - (1) How is value determined?
 - (2) Who will declare value?
 - b) How can we plan for upstream effects on future easement values?
 - c) Will easements be transferable? (To whom?)
14. How will monitoring be handled?
- a) Who will monitor?
 - b) How will monitoring be done?
 - c) Who will conduct technical evaluation of easements?
15. What are the marketing issues?

- a) Public awareness
- b) Communicating accountability to citizens
- c) Selling the program to landowners
- d) Environmental gain
- e) Public value
- f) Targeting participants (rural & urban)

16. What marketing tools are needed? Who will develop them?

- a) What kind of educational resources will be needed?
- b) What kinds of databases will be needed (marketing/ tracking/ funding, etc.)
- c) Other marketing tools?
- d) Marketing budget?

Project Outline:

The FREPS Team has thus far defined these points for the Riparian Easement Program:

1. Focus not necessarily on nutrient trading but program must be eligible for DEQ nutrient trading.
2. Must be able to verify the program is what it says it is.
3. Program assumptions
 - The program will be voluntary.
 - The program will be county-wide.
 - The program will be self-sustaining.
 - The program might be incentive-based.
 - The program will involve permanent easements but might also include non-permanent easements if the team so determines.
 - Coordinated with existing governmental programs.

Kyle Winter, VA Dept. of Environmental Quality's Chesapeake Bay Watershed Nutrient Program, recommended the following to the FREPS Team:

1. "Do the right thing now."
2. Establish a 2005 baseline record of the water quality now.
3. Document changes that are implemented and be able to show by 2007 how the quality has improved since the changes (for example aerial views of livestock being fenced away from streams, annual statistics of nutrient loading, TMDL data, etc).

Structure

The final Riparian Easement Program will belong to Fauquier County. While many people have contributed to the development of the Riparian Easement Program, ultimately the county is responsible for its implementation, either by itself or through partnerships, its legality, and satisfying the needs of its citizenry; therefore, it is understood that Fauquier County has the final authority to make changes to the Riparian Easement Program if needed.

Fauquier County Riparian Easement Program Team member organizations do individually agree to the following stated roles in the continuing efforts of the Fauquier County

Riparian Easement Program as is indicated by the statements and signatures of their representatives.

Citizens for Fauquier County

Citizens for Fauquier County (CFFC) supports the development of a riparian easement program in Fauquier County for the purpose of protecting and preserving stream and river ecology and water quality. A representative of CFFC's Environmental Resources Committee will continue to work with the FREPS Team to develop a workable program. Upon completion and implementation of such a program, CFFC would assist in educating Fauquier citizens of the existence and benefits of the riparian easement program.

Mimi Moore

Date

Fauquier County Administration

Fauquier County government believes in the importance of establishing a self sustaining, countywide Riparian Buffer Easement Program. Upon approval of the program, the County Administrator will continue to direct staff, with the Water Resource Management Program taking the lead, to research, develop and implement a program that meets these goals.

Paul McCulla, Fauquier County Administrator

Date

Fauquier Co. Agricultural Development Office

The Fauquier County Agricultural Development Office will participate in the development of a Riparian Easement Program through the following activities:

- assistance in program development, including review of easement documents and other program guidelines
- evaluation of possible interface with Purchase of Development Rights Program
- evaluation of potential riparian easement valuation criteria and methodology
- assistance in promotion of Riparian Easement Program once enacted
- on-going cooperation with entity and/or staff tasked with program implementation

Ray Pickering
Fauquier County Agricultural Development Office

Date

Fauquier County Department of Community Development

In support of a Fauquier County Board of Supervisors approved Riparian Buffer Easement Program, the Department of Community Development agrees to:

1. Work with the Riparian Easement Program Solutions Team to identify and secure program funding sources;
2. Assist the Program Team in its efforts with landowners, agencies and foundations to identify potential riparian buffer easement sites;
3. Assist in any research and the implementation of any Board of Supervisors approved incentive programs for landowners and developers designed to encourage participation in the riparian buffer easement program;
4. Integrate consideration for buffer easement potential into the planning process;
5. Provide technical support in the land use application process for all properties with intermittent and/or perennial streams. This will involve basic site evaluation including:
 - a. Soil and slope analysis;
 - b. Vegetative conditions;
 - c. Stream bank and channel integrity;
 - d. Identification of flood plains and hydric soils;
 - e. Adjoining parcels (existing and planned land uses);
 - f. Potential for continuity of buffer areas.

The evaluation of site conditions at the pre-application phase will assure the ability to identify properties potentially eligible for inclusion in the riparian buffer easement program or other programs designed to protect water quality.

Frederick P. D. Carr, Director

Date

Fauquier County Health Department

The Fauquier County Health Department will provide technical assistance to the County in its development and promotion of any local riparian protection efforts. Such issues as impacts of sewage disposal systems, water impoundments and possible sources of pollution in sensitive areas will be considered. The Health Department will commit to enforce those sections of any ordinance adopted by the county which would normally involve health department services. The Health Department will commit to a yearly public service project to promote riparian issues and sensitivity such as an alternative public service initiative through the court system for youthful offenders or a field day of instruction for consultants or other professional working in land use.

Charles E. Shepherd, RS
District Environmental Health Manger

Date

Fauquier County GIS Department

The GIS Department recognizes the importance of a Riparian Buffer Easement Program and will, per the direction of the County Administrator, continue to support its development and implementation. Staff will help the program as needed through project management, budget requests, meeting attendance, technical assistance, and various GIS mapping layers.

Lori Hertig, GIS Director

Date

Friends of the Rappahannock

Signature of partner indicates continued support. See attached addendum.

Steve Robinson, Acting Director

Date

Goose Creek Association

The Goose Creek Association will:

1. Provide **data information for its 15 monitoring sites** (8 on Goose Creek and 7 on its tributaries) to establish a 2005 baseline record of water quality:
 - 8 on the Goose Creek
 - 2 on Little River
 - 1 on Gap Run
 - 1 on Bolling's Branch
 - 1 on Crooked Run
 - 1 on Cromwell's Run
 - 1 un-named tributary of Cromwell's Run
2. We hope to add a 16th site by spring which would be a 2nd site on Bolling's Branch upstream of VA Beef land from the other Bolling's Branch site.
3. Offer **awareness outreach programs in 2006/2007** to educate the public about the benefits of riparian easements.

Nancy West, Goose Creek Association, Co-Chairman

Date

John Marshall Soil and Water Conservation District

The John Marshall SWCD will continue its support for the Fauquier County Riparian Easement Program. This support will include, but will not be limited to, working with the county in the development of the program policy, assistance in securing funding sources, and providing technical support concerning environmental implications of the policy and the easements themselves. To assure the program adopted by Fauquier does not negatively impact the District's goals, the JMSWCD Board of Directors reserves the right of final approval for its participation in the Fauquier County Riparian Buffer Program.

Mary Lou Trimble, Chair JMSWCD

Date

Northern Virginia Regional Commission

Signature of partner indicates continued support. See attached addendum.

Normand Goulet

Date

Occoquan Watershed Monitoring Laboratory - VA Tech

The Occoquan Laboratory will support the FREPS through continuing provision of technical expertise and sharing of water quality data.

Thomas Grizzard, Director

Date

Piedmont Environmental Council

The Piedmont Environmental Council supports the FREPS program. PEC will contribute to the public awareness and outreach programs, including possibly GIS mapping assistance.

Jolly de Give

Date

Rappahannock/Rapidan Regional Commission

RRRC supports the FREPS program and agrees to provide in-kind staff and support, grant writing and technical assistance as needed.

Jeffrey Walker, Deputy Director

Date

Rappahannock River Basin Commission

The Commission is generally supportive of the development of this and other water quality improvement initiatives. The RRBC will assist with the exchange of information and feedback with the other 14 member local governments and the members of the General Assembly.

Eldon James

Date

Virginia Department of Conservation and Recreation

The Virginia Department of Conservation and Recreation (DCR), Potomac Watershed Office, supports the concepts of a Riparian Buffer Program (Program) for Fauquier County. Such a program complements the recently released Tributary Strategy Goals for the Potomac Watershed. Our office is pleased to assist in this effort in the following ways:

- Participate fully in meetings and discussions about the design and implementation of the Program;
- Keep the Program updated on DCR initiatives and grant efforts that have bearing on the Program;
- Provide assistance as appropriate and available.

Marc T. Aveni
Regional Manager
Potomac Watershed Office

Date

Virginia Department Environmental Quality (DEQ) Northern Virginia Regional Office

The Virginia Department of Environmental Quality (Va. DEQ) supports the concepts of a riparian buffer program as envisioned by the Fauquier County Riparian Easement Program Solutions Team (FREPS). The Department recognizes the future challenges that project stakeholders face in implementing an easement program that works to improve regional water quality in Fauquier County. In the spirit of collaboration and cooperation the Northern Regional Office of Va. DEQ offers to support the project in the following manner:

- Keep future partners informed on DEQ's implementation of Virginia's nutrient trading program;
- Participate as needed or requested in future meetings of the partnership;
- Provide available water quality data to the team as may be needed in support of defining baseline ambient stream conditions;
- Assist in educational outreach efforts designed to engage members of the community to meet project goals and to market the program;
- Provide any other appropriate technical assistance in support of the project.

Jeffery A. Steers,
Regional Director
Va. DEQ Northern Regional Office

Date

Virginia Department of Forestry

The VA DOF, per Executive Order #91 (July, 2005), is recognized as the lead agency for Riparian Forest Buffer implementation in the Commonwealth, and as such will assist the Fauquier Riparian Easement Program Solutions Team in technical service delivery for riparian plantings and in-stream restoration efforts. Additionally the Department will seek grant funding, to the extent possible, to offset loss of locality funding due to those riparian easements subject to a tax exemption.

James Fulcher
Chesapeake Bay Coordinator
Virginia Department of Forestry

Date

Virginia Outdoors Foundation

The Virginia Outdoors Foundation (VOF) holds almost 400 easements in Fauquier County. VOF will review and comment on riparian easement program design and on easement language. Many VOF easements contain language providing for riparian buffers. VOF will share our easement properties database and work with the owners of properties with VOF easements to try to improve riparian protections and to coordinate with the entity that evolves to operate the Fauquier Riparian Buffer Program. VOF will attend program meetings and will assist with program development and help explain the stewardship role and function of riparian easement holders.

VOF - G. Robert Lee, Executive Director

Date

The partners of the Fauquier County Riparian Easement Program Team are listed here.

FREPS Team Members

Convener

Harry Atherton

Project Manager

Denise Harris

Fauquier County Riparian Easement Solutions Team Members

Paul McCulla, Fauquier County Administrator

Harry Atherton, Fauquier County Board of Supervisors Vice Chairman, Marshall District

Denise M. Harris, Project Officer, Fauquier Co. Water Resource Management Program

Gray Coyner, John Marshall Soil and Water Conservation District

Bill Frazier, John Marshall Soil and Water Conservation District

Jennifer Krick, John Marshall Soil and Water Conservation District

Eldon James, Rappahannock River Basin Commission

Deirdre Clark, Fauquier County Community Development

Ray Pickering, Agricultural Development Officer, Fauquier Co. Agricultural Development Office

Normand Goulet, Northern Virginia Planning District Commission

John Tippet, Executive Director, Friends of the Rappahannock

Jeffrey Walker, Deputy Director, Rappahannock/Rapidan Regional Commission

Jolly de Give, Piedmont Environmental Council

Thomas Grizzard, Director, Occoquan Watershed Monitoring Laboratory - VA Tech

Marc Aveni, Regional Manager, Virginia Department of Conservation and Recreation

G. Robert Lee, Executive Director, Virginia Outdoors Foundation

Jeffrey Steers, DEQ Regional Director, Northern Virginia Regional Office

Mimi Moore, Chair Environmental Resources Committee, Citizens for Fauquier County

Nancy West, Co-Chairman, Goose Creek Association

Charles Shepherd, Environmental Health Manager, Fauquier Health Department

James Fulcher, Chesapeake Bay Coordinator, Virginia Dept of Forestry